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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,471	05/29/2001	Hsiang Tsun Yen	ACR0034-US	3490
34283	7590	03/09/2005	EXAMINER	
QUINTERO LAW OFFICE 1617 BROADWAY, 3RD FLOOR SANTA MONICA, CA 90404			PHILLIPS, HASSAN A	
			ART UNIT	PAPER NUMBER

2151

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/865,471

Applicant(s)

YEN ET AL.

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to Amendments filed on January 21, 2005.

### ***Drawings***

2. After consideration of Applicants remarks regarding the objection to the drawings, the Examiner has withdrawn the objection to the drawings.

### ***Claim Objections***

3. After consideration of the amendments made to claims 9, 18, 27, and 36 to correct minor errors, the Examiner has withdrawn the objections to claims 9, 18, 27, and 36.

### ***Response to Arguments***

4. Applicant's arguments filed January 21, 2005 have been fully considered but they are not persuasive. Applicant argued that:

- a) Ballard and Lerman, whether alone or in combination, fail to teach or suggest a method or system for real-time data scheduling for displaying real-time data wherein the channel unit sends a channel request, receives corresponding channel-data, determines one of the queues that the channel-data to be entered according to the queue number of the channel

data, and defines the time to enter into the queue according to the timer of the channel data, in which respective queues have a corresponding priority, and channel-data in the queue with higher priority is retrieved prior than that in the queue with lower priority, as recited in claims 1 and 19.

- b) Ballard and Lerman, whether taken alone or in combination, fail to teach or suggest a method or system for real-time data scheduling for displaying real-time data wherein the channel unit sends a channel request, receives the corresponding channel-data, determines whether a corresponding queue is already generated according to the priority number of the channel-data, if yes, defines the time to enter into the queue according to the timer of the channel-data, if not generates the corresponding queue, and defines the time for the channel-data to enter into the queue.

The Examiner respectfully disagrees.

5. Regarding item a), Ballard teaches a channel unit sending a channel request (col. 3, lines 14-20), and receiving corresponding channel-data (col. 3, lines 21-25). Ballard also teaches defining a time to display channel data according to a timer of the channel data (col. 2, lines 16-22). Lerman teaches determining a queue that channel-data is to be entered to according to a queue number of the channel data (col. 2, lines 15-37), and queues having a corresponding priority, channel-data in queues with a higher priority being retrieved prior than that with queues with a lower priority (col. 2, lines 38-51). Thus, in combination, Ballard and Lerman suggest a method or system for

real-time data scheduling for displaying real-time data wherein the channel unit sends a channel request, receives corresponding channel-data, determines one of the queues that the channel-data to be entered according to the queue number of the channel data, and defines the time to enter into the queue according to the timer of the channel data, in which respective queues have a corresponding priority, and channel-data in the queue with higher priority is retrieved prior than that in the queue with lower priority, as recited in claims 1 and 19.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Lerman provides motivation, teaching that such a queuing means should be employed in order to constantly display channel-data on a user's interface, (col. 2, lines 51-55).

6. Regarding item b), as previously mentioned, Ballard teaches a channel unit sending a channel request (col. 3, lines 14-20), and receiving corresponding channel-data (col. 3, lines 21-25). Ballard also teaches defining a time to display channel data according to a timer of the channel data (col. 2, lines 16-22). Lerman teaches determining a queue that channel-data is to be entered to according to a queue number

of the channel data (col. 2, lines 15-37), and queues having a corresponding priority, channel-data in queues with a higher priority being retrieved prior than that with queues with a lower priority (col. 2, lines 38-51). Although determining whether a queue is generated is not explicitly taught in the teachings of Lerman, this process is implicit in the teachings of Lerman. Lerman suggests that two or more queues are needed in order to constantly display channel-data on a user's interface, (col. 2, lines 16-55). For a more explicit teaching of this process, the Applicant is requested to review the newly cited reference, Galensky et al. (hereinafter Galensky), U.S. Patent 6,845,398 (col. 5 line 60 through col. 6, line 27). Nowhere in the teachings of Lerman does it mention that the queues are "fixed".

7. Furthermore, the Examiner has interpreted the claim language as broadly as possible. It is also the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in a manner that distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterated the need for Applicant to define the claimed invention more clearly and distinctly. Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard, U.S. Patent 6,182,050, in view of Lerman et al. (hereinafter Lerman), U.S. Patent 6,378,036.

10. In considering claims 1, 10, 19, and 28, Ballard teaches a method and system for real-time data scheduling for displaying real-time data using a server, the server collecting a plurality of data, assorting the data into a plurality of channel-data, giving a timer on each channel-data, the client having a user interface, a plurality of channel receiving unit and a channel-data switching unit, the method for real-time data scheduling comprising:

- a) Making a channel request to the server from the channel unit, (col. 3, lines 14-20);
- b) Receiving the channel request in the server and transferring the corresponding channel-data to the channel receiving unit, (col. 3, lines 21-25);

- c) Receiving the channel-data in the channel unit, and defining the time to display the data by the user interface unit, according to the timer of the channel-data, (col. 2, lines 16-22).

Although the disclosed method and system of Ballard shows substantial features of the claimed invention, it fails to explicitly disclose:

- d) The channel-data entering a plurality of queues.

Nevertheless, using a plurality of queues for requested data was well known in the art at the time of the present invention. In a similar field of endeavor, Lerman exemplifies this, and teaches a queuing architecture including a plurality of queues and an associated method for scheduling disk access request for video content comprising:

- d) Entering the access requests into a plurality of queues in order to efficiently access the video content, (col. 2, lines 15-37); queues having a corresponding priority, channel-data in queues with a higher priority being retrieved prior than that with queues with a lower priority (col. 2, lines 38-51).

Thus given the teachings of Lerman, it would have been obvious to one of ordinary skill in the art to modify the teachings of Ballard in order to show, upon receiving the channel-data in the channel unit, determining one of the queues that the channel-data to be entered according to the queue number of the channel data, and defining the time to enter into the queue according to the timer of the channel data, in which respective queues have a corresponding priority, and channel-data in the queue with higher priority is retrieved prior than that in the queue with lower priority. This



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would have provided an efficient, and well-known means for constantly displaying channel-data on the user's interface unit, Lerman, col. 2, lines 51-55.

11. In considering claims 2, 11, 20, and 29, Lerman teaches the queue number defining the priority of the data. See col. 2, lines 15-37. One of ordinary skill in the art would modify the teachings of Ballard with Lerman to have the queue number define the priority of the data display for the same reasons indicated in consideration of claims 1, 10, 19, and 28.

12. In considering claims 3, 12, 21, and 30, Ballard further provides a means for displaying channel-data with higher priority prior than channel-data with lower priority. See col. 11, lines 54-61.

13. In considering claims 4, 13, 22, and 31, Ballard further provides a means for, when channel-data with higher priority of the data display cut in the queue, displaying the channel-data with higher priority prior than channel-data with lower priority. See col. 11, lines 54-61.

14. In considering claims 5, 14, 23, and 32, Lerman teaches the queue following the FIFO (first in first out) rule. See col. 2, lines 15-37. One of ordinary skill in the art would modify the teachings of Ballard with Lerman to have the channel-data in the

queue follow the FIFO rule for the same reasons indicated in consideration of claims 1, 10, 19, and 28.

15. In considering claims 6, 15, 24, and 33, Ballard further provides a means for, when the channel-data in a plurality of queues is empty, simultaneously displaying pre-determined data with timer defining the display time of a later period. See col. 10, lines 6-10.

16. In considering claims 7, 16, 25, and 34, Ballard teaches the pre-determined data being an advertisement. See col. 10, lines 6-10.

17. In considering claims 8, 17, 26, and 35, Ballard teaches the server providing the user interface. See col. 3, lines 21-25.

18. In considering claims 9, 18, 27, and 36, Ballard teaches the channel-data being dependent upon a client's request. See col. 3, lines 14-20.

### ***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Galensky et al., U.S. Patent 6,845,398, discloses a method for receiving steaming multimedia over a wireless network.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/  
3/3/05

  
**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER